

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	
WITH RCW 42.17)	PDC CASE NO: 01-219
)	
Amalgamated Transit Union)	Report of Investigation
Local 587)	
)	
<u>Respondent</u>)	

I.

BACKGROUND

- 1.1 Initiative 745 was a statewide ballot proposition that would have required 90% of transportation funds, including transit taxes, to be dedicated to road construction. The measure would have also required transportation agency performance audits, and would have exempted road construction and maintenance from sales taxes. The measure was defeated on November 7, 2000, by a margin of 59.34% to 40.65%.
- 1.2 On March 26, 2001, a "45-Day Notice of Violation" complaint letter was filed with the Office of the Attorney General and the King County Prosecutor's Office by Monte Benham of Permanent Offense. Mr. Benham's Complaint was filed against Metro Transit of King County and Amalgamated Transit Union Local 587 (ATU Local 587) alleging that a special assessment was withheld from the paychecks of transit union employees of Metro Transit/King County to fight Initiative 745 without first obtaining the required written authorization from each employee. The complaint against Metro Transit of King County was referred to the Attorney General's Office after the Commission found multiple apparent violations, and that their penalty authority was not sufficient based on the facts and allegations presented. The complaint against ATU Local 587 was dismissed by the Commission.

- 1.3 On May 9, 2001, Vicki Rippie, Executive Director of the Public Disclosure Commission (PDC) filed a complaint against ATU Local 587 alleging violations of the following:
- RCW 42.17.040, .080 and .090 by failing to register and report as a political committee when it solicited and received special assessment funds from its members to oppose Initiative 745.
 - RCW 42.17.730 by acting as an intermediary by receiving special assessment funds from its members and transmitting those funds to political committees opposed to Initiative 745 without identifying the members.

II.

SCOPE

- 2.1 Public Disclosure Commission reports submitted by the Citizens for Real Transportation Choices, a political committee opposing Initiative 745 were reviewed.
- 2.2 Documents, bank statements and other memoranda submitted by ATU Local 587, and ATU Local 587 No on I-745 were reviewed.
- 2.3 Documents, interviews, the complaint, and other memoranda submitted by ATU Local 587 and King County in PDC Case No. #01-203 and #01-204 were reviewed.

III.

APPLICABLE LAW AND ADMINISTRATIVE RULES

- 3.1 **RCW 42.17.020(14)(a)(i)** states the following:

Contribution includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value including personal and professional services for less than full consideration.

3.2 **RCW 42.17.020(33)** states the following:

“Political committee” means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

3.3 **RCW 42.17.040(1)** states the following:

Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides.

3.4 **RCW 42.17.080 and RCW 42.17.090** require political committees to file at specified intervals, detailed reports of contribution and expenditure information as required by statute. For a political committee opposing a statewide initiative, those required reports include a 21-day pre-general election C-4 report, a 7-day pre-general election C-4 report, and a post election C-4 report. In addition, if contribution or expenditure activities are undertaken by the committee after the post election report is filed, additional C-4 reports are also required.

3.5 **RCW 42.17.730(1)** states the following:

A person, other than an individual, may not be an intermediary or an agent for a contribution.

3.6 **RCW 42.17.020(25)(a)** states the following:

Intermediary means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual’s employer, immediate family, or an association to which the individual belongs.

IV.

FINDINGS

- 4.1 On March 26, 2001, a “45-Day Notice of Violation” complaint letter was filed with the Office of the Attorney General and the King County Prosecutor’s Office by Monte Benham of Permanent Offense against Metro Transit of King County and ATU Local 587 (ATU Local 587). The letter was received by the Office of the Attorney General Office on March 28, 2001.

The complaint alleged that a special assessment was withheld from the paychecks of employees of Metro Transit of King County to fight Initiative 745 without first obtaining the required written authorization from each employee. Both the Office of the Attorney General Office and the King County Prosecutor’s Office referred the complaint to the Public Disclosure Commission (PDC) for investigation and appropriate disposition. The complaint against Metro Transit of King County has been referred to the Office of the Attorney General Office after the Commission found multiple apparent violations, and that their penalty authority was not sufficient based on the facts and allegations presented.

Initiative 745 was a statewide ballot proposition that would have required the following:

- 90% of transportation funds, including transit taxes be dedicated to road construction;
- transportation agency performance audits; and
- exemption of road construction and maintenance from sales taxes.

The measure was defeated on November 7, 2000, by a margin of 59.34% to 40.65%. The complaint against ATU Local 587 was dismissed by the Commission. However, on May 9, 2001, Vicki Rippie, Executive Director of the PDC filed a complaint against ATU Local 587 (ATU Local 587) alleging violations of the following (**See Exhibit #1**):

- RCW 42.17.040, 42.17.080 & 42.17.090 by failing to register and report as a political committee when it solicited and received special assessment funds from its members to oppose Initiative 745.
- RCW 42.17.730 by acting as an intermediary by receiving special assessment funds from its members and transmitting those funds to political committees opposed to Initiative 745 without identifying the members.

- 4.2 On July 13, 2000, a letter was sent by facsimile from the ATU Legislative Council (ATULC) to their union members. The letter, signed by Mike Powell, President of the Amalgamated Transit Union Legislative Council of Washington State was addressed to "Brothers and Sisters" and had the words "Please Post" stamped upon the letter. **See Exhibit #2.** The letter provided the following regarding Initiative 745:

...This initiative, if passed in November, could bring an end to public transportation. While many of us escaped, at least temporarily, the impacts of I-695, none of us will escape the impacts of I-745.

We need two things to win the war against us. We need people. We need you to work with your officers and help us to get the message out in a grass roots effort all across the State of Washington. Also, we need money. We would ask that you approve an assessment of \$50 per member. This can be taken out at \$10 per pay period on a bi-weekly payroll for 5 pay periods, or \$25 two times for monthly payroll. This would help us to raise Nearly \$300,000 for radio, TV and other costs associated with an effective campaign....

- 4.3 On August 7, 2000, a notice was sent to ATU Local 587 members about an upcoming informational forum regarding I-745. **See Exhibit #3.** The notice included the following information about the forum:

Local 587 will hold an informational forum to discuss the impacts of Initiative 745 and the special assessment vote proposed by the Executive Board to fight this threat to public transit statewide. ATU Legislative Council President Mike Powell will be on hand to discuss plans to fight the initiative.

- 4.4 On August 14, 2000, a letter was sent from ATU Local 587 officers and addressed "To all ATU Local 587 members". The letter discussed the fact that Paul Toliver, Director of King County Transit, would not allow the distribution of I-745 materials to members at their worksites, and would not allow the referendum vote on the special assessment issue to be held at the worksite. The letter went on to state the following:

Due to the time required for a legal decision to resolve this dispute, the officers have decided to hold the referendum vote as follows:

I-745 Assessment Referendum Vote

Thursday, August 17th, 2000

Friday, August 18th, 2000

Polling Hours: 4:00AM to 8:00 PM

Location: IBEW Building, 2700 First Ave

- 4.5 On August 16, 2000, ATU Local 587 produced a flyer entitled "Referendum Vote Update", and was labeled "please post." The flyer informed union members "the officers of ATU Local 587 have put King County/Metro on notice that we will be holding our referendum vote on the special assessment at all worksites on Thursday, August 24th 2000. As notice was posted that elections would be held at the union office on Thursday August 17, and Friday, August 18, these two days will still be available as pre-polling for those members who wish to exercise their right to vote in advance".
- 4.6 On August 24, 2000, ATU Local 587 sent a notice to members entitled "Unofficial Assessment Vote Count" and labeled please post, stating that the unofficial vote count for the special assessment was 1,069 "Yes" votes and 566 "No" votes.
- 4.7 On August 25, 2000, a letter was sent from ATU Local 587 addressed to Mildred Llarenas, Payroll Division, King County/Department of Metro Services "RE:I-745 Assessment". **See Exhibit #4.** The letter went on to state:

Our membership, your employees, has voted to assess itself \$50 per member to fight I-745. Please deduct ten dollars (\$10) per bi-weekly payroll for each of the next five paydays: Sept. 19, Sept. 28, Oct. 12, Oct. 26, and Nov. 9. NOTE: For those transits who pay monthly, deduct twenty-five dollar (\$25) in September and October.

- 4.8 The documents provided by ATU Local 587 indicated that a number of transit members completed a waiver to "opt-out" of the special assessment, and refunds were submitted to those individuals. ATU Local 587 President Lance Norton stated the following when asked about the availability of the waivers for transit members (Mr. Norton was interviewed during PDC Case No. #01-203):

They were available at the voting places and at the work site and at the union office and as a matter of fact all through the process of the assessments opt out slips continued to come in and they were honored right up to and through the last assessment...
(Lance Norton Interview Under Oath, page 16) **See Exhibit #5.**

Failure to timely register as a political committee:

- 4.9 The August 24, 2000, letter from ATU Local 587 to its members informing them that the unofficial vote count for the special assessment was 63% in favor of the assessment, and the August 25, 2000, letter sent to King County's Payroll Division regarding the I-745 Assessment, triggered a filing obligation with the Public Disclosure Commission.
- 4.10 A Committee Registration Statement (PDC Form C-1pc) should have been filed by September 7, 2000, since the ATU Local 587 No on I-745 Committee had the expectation of receiving funds to oppose a statewide ballot proposition. A separate bank account was established on September 14, 2000, to account for the funds.

Failure to timely report as a political committee:

Contributions:

- 4.11 On September 14, 2000, a \$10,000 transfer was made from the ATU Local 587 general fund to the ATU Local 587 No on I-745 Committee. This was the initial transfer and the first transaction listed on the No on I-745 Analysis that was provided, as well as the bank statement. **See Exhibit #6.** A Cash Receipts Monetary Contributions Report (PDC Form C-3) should have been filed no later than September 22, 2000.
- 4.12 On September 28, 2000, the ATU Local 587 No on I-745 Committee received the first assessment withheld by King County from transit member dues. There were a total of five withholdings of \$10 per pay period for the special assessment. The funds were withheld by King County from transit members in opposition to I-745, and therefore should have been reported as monetary contributions to a political committee opposing a statewide initiative. The five withholdings occurred as follows:

- \$32,351.29 on September 28, 2000;
- \$31,411.18 on October 12, 2000;
- \$30,796.02 on October 26, 2000;
- \$30,723.85 on November 9, 2000;
- \$30,714.90 on November 29, 2000.

4.13 A total of \$155,997.24 was collected by the ATU Local 587 No on I-745 Committee as part of the special assessments. A Cash Receipts Monetary Contributions Report (PDC Form C-3) should have been filed for each of the five withholdings. After the third withholding on October 26, 2000, the name and address of all transit members that did not submit a waiver of assessment (approximately three thousand members) should have been disclosed on the C-3 report.

4.14 There were two additional deposits made by the ATU Local 587 No on I-745 Committee.. The first deposit was for \$550 on October 26, 2000, and represented an assessment from the employees of ATU Local 587 Laidlaw bargaining unit that subcontracted with King County/Metro. The second deposit was for \$1,000 on November 17, 2000, and was a partial refund from the ATU Legislative Committee No on I-745. A C-3 report should have been filed for each of these deposits.

4.15 In addition to the \$10,000 transfer made from ATU Local 587 general fund on September 14, 2000, there were two additional transfers made to ATU Local 587 No on I-745 Committee from the general fund. Those transfers made as follows:

- \$50,000 on October 3, 2000
- \$50,000 on October 12, 2000

4.16 A total of \$110,000 in general funds from ATU Local 587 were loaned to the ATU Local 587 No on I-745 Committee. The two \$50,000 transfers of general fund monies deposited in October, should have been reported on two additional C-3 reports with a description included on the Schedule L Loan document.

4.17 ATU Local 587 President Lance Norton stated the following when interviewed during PDC Case No. #01-203 and #01-204:

Well we had taken monies out of the general fund account to set up a separate account and then when we got those monies through the assessment, they were replaced back into the general account but there was a separate account set up for the purpose of dispersing the assessment monies to the various entities that would be fighting the initiative. (Lance Norton Interview Under Oath, page 9.) See Exhibit #7.

Expenditures:

4.18 During the 2000 election cycle, ATU Local 587 No on I-745 Committee made a total of \$148,000 in political contributions reported as follows **(See Exhibit #8):**

- Citizens for Real Transportation Choices reported receiving a \$75,000 contribution on October 4, 2000, from ATU Local 587;
- Citizens for Real Transportation Choices reported receiving a \$60,000 contribution on October 12, 2000, from ATU Local 587;
- ATU Legislative Committee No on I-745 reported receiving a \$13,000 contribution on October 14, 2000, from ATU Local 587.

NOTE-the \$1,000 refund from ATU Legislative Committee No on I-745 referred to in Section 4.14 of this report, reduced the total political contributions made by ATU Local 587 No on I-745 Committee during the 2000 election cycle to \$147,000.

4.19 There were a number of additional expenditures made by the ATU Local 587 No on I-745 Committee, the large majority were \$10 refunds to members who waived the special assessment, but who had completed the waiver after the withholdings took place. In addition, there were a few additional expenditures for other items such as the following

- \$89.00 service charge on October 25, 2000;
- \$3,178.14 for No on I-745 yard signs on November 8, 2000;
- \$146.61 for car window stickers on November 8, 2000;
- \$1,439.00 to A T & T Media Services on November 8, 2000;
- \$2,923.00 to A T & T Media Services on December 5, 2000;

NOTE-the two expenditures made to A T & T Media Services totaling \$4,362 were refunded to the ATU Local 587 No on I-745 on March 1, 2001, since they were paid from another source.

- 4.20 Finally, two additional expenditures were made from ATU Local 587 No on I-745 Committee to the ATU Local 587 general fund in order to repay the loans. Those transfers to the ATU Local 587 were made as follows:
- \$50,000 on November 9, 2000;
 - \$50,000 on November 30, 2000.
- 4.21 A 21-day pre-general election Summary, Full Report Receipts and Expenditures (PDC Form C-4) should have been filed by ATU Local 587 No on I-745 Committee no later than October 17, 2000, covering the period of September 1-October 10, 2000. The C-4 report would have disclosed the \$75,000 contribution made to the Citizens for Real Transportation Choices, and refunds made to transit members that completed the waiver.
- 4.22 A 7-day pre-general election Summary, Full Report Receipts and Expenditures (PDC Form C-4) should have been filed by ATU Local 587 No on I-745 Committee no later than October 31, 2000, covering the period of October 11-October 30, 2000. The C-4 report would have disclosed the additional \$73,000 in contributions made to the Citizens for Real Transportation Choices, and refunds made to transit members that completed the waiver.
- 4.23 A post-election C-4 report should have been filed by ATU Local 587 No on I-745 Committee no later than December 11, 2000, covering the period of October 30-November 30, 2000. The C-4 report would have disclosed the \$100,000 in loan repayments made to the ATU Local 587 general fund, refunds made to transit members that completed the waiver, the expenditures for member yard and window signs, and one of the expenditures to A T & T Media Services.
- 4.24 A C-4 report should have been filed by ATU Local 587 No on I-745 Committee no later than January 10, 2001, covering the period of December 1-31, 2000. The C-4 report would have disclosed refunds made to transit members that completed the waiver and the second expenditure to A T & T Media Services.

- 4.25 A C-4 report should have been filed by ATU Local 587 No on I-745 Committee no later than April 10, 2001, covering the period of March 1-31, 2001. The C-4 report would have disclosed the \$4,362 refund for the two expenditures made to A T & T Media Services.
- 4.26 The last bank statement provided by the ATU Local 587 No on I-745 Committee indicated that a balance of \$8,455.90 remained in the account.
- 4.27 There was no evidence discovered to support the allegation that ATU Local 587 acted as an intermediary or a conduit for contributions made to the Citizens for Real Transportation Choices.
- 4.28 In all matters related to this investigation, ATU Local 587 has fully cooperated in all matters related to this investigation.

Respectfully Submitted this 11th day of July, 2001.

Kurt Young
Chief Political Finance Specialist

List of Exhibits

- Exhibit #1: May 9, 2001, complaint filed against ATU Local 587 by Vicki Rippie, Executive Director of the PDC.
- Exhibit #2: July 13, 2000, letter sent by facsimile from the ATU Legislative Council (ATULC) to their union members.
- Exhibit #3: August 7, 2000, notice sent to ATU Local 587 members about an upcoming informational forum regarding I-745.
- Exhibit #4: August 25, 2000, letter sent from ATU Local 587 addressed to Mildred Llarenas, Payroll Division, King County/Department of Metro Services "RE:I-745 Assessment".
- Exhibit #5: Lance Norton Interview Under Oath, page 16.
- Exhibit #6: Spreadsheet from ATU Local 587 "No on I-745 Analysis"
- Exhibit #7: Lance Norton Interview Under Oath, page 9.
- Exhibit #8: PDC C-3 reports filed by Citizens for Real Transportation Choices and ATU Legislative Committee No on I-745.